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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,746	08/23/2001	Gabriela Chiosis	64987/JPW/GJG	4095

7590 07/05/2002

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EXAMINER

WEDDINGTON, KEVIN E

ART UNIT	PAPER NUMBER
1614	9

DATE MAILED: 07/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/938,746	Chiosis et al.
	Examiner Kevin E. Weddington	Art Unit 1614
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.		
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.		
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.		
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).		
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
<b>Status</b>		
1) <input type="checkbox"/> Responsive to communication(s) filed on _____.		
2a) <input type="checkbox"/> This action is <b>FINAL</b> .      2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
<b>Disposition of Claims</b>		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-35, 42, 61, and 71-82</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input type="checkbox"/> Claim(s) _____ is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input checked="" type="checkbox"/> Claims <u>1-35, 42, 61, and 71-82</u> are subject to restriction and/or election requirement.		
<b>Application Papers</b>		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
*See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
<b>Attachment(s)</b>		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		
6) <input type="checkbox"/> Other: _____		

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## DETAILED ACTION

### *Election/Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, 6-23, 25-34, 42, 61 and 72-78 are drawn to methods for treating or killing an infection caused by a glycopeptide antibiotic resistant bacteria by administering a composition comprising vancomycin and an agent represented by formula S-Pro-Cn, classified in class 514, subclasses 2 and 425.
- II. Claims 1-3, 5-22, 24-34, 42, 61 and 72-78 are drawn to methods for treating or killing an infection caused by a glycopeptide antibiotic resistant bacteria by administering a composition comprising vancomycin and an agent represented by the structure of claim 5, classified in class 514, subclasses 2, 315 and 425.
- III. Claim 35 is drawn to a method for determining whether a test compound, classified in class 435, various subclasses.

The three inventions are independent and distinct, each from the other as they have acquired a separate status in the art as shown by their different classification and a separate subject matter for inventive effort. Further, a reference which anticipates any one of the above inventions would neither anticipate or make obvious of the other inventions. Each such invention is capable of supporting its own patent. For these reasons, the restriction requirement is proper.

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To be complete, applicants' response must include a provisional election even though the requirement may be traverse.

The applicants are required to elect a single invention for examination purposes.

Claim 71 depends on cancelled claims 69.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner K. Weddington, whose telephone number is (703) 308-1235.

  
Kevin E. Weddington  
Primary Examiner  
Art Unit 1614

K. Weddington

July 3, 2002